

DATE: 12/1/82 FROM: J. Kennedy

BETHLEHEM	
BUCKS CO. HEALTH	
CHESTER CO. HEALTH	
DELA. CO. HEALTH	
PHILA. CO. HEALTH	
WERNERSVILLE	
LITIGATION	
✓ EPA - 6th & WAL.	
HARRISBURG	

Building -

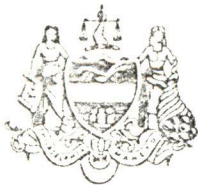
Floor -

Bureau

Person

Message

Pete Ludzja



CITY OF PHILADELPHIA

WATER DEPARTMENT
1180 MUNICIPAL SERVICES BUILDING
PHILADELPHIA, PENNSYLVANIA 19107

WILLIAM J. MARRAZZO
WATER COMMISSIONER

November 22, 1982

20-11/23/82
Copies to: CTB
Co-Grants
P. Ludzke
Rec'd 11/23/82

John Kennedy *GK*
Chief, Grant Section
Pennsylvania Department of Environmental Resources
1875 New Hope Street
Norristown, PA 19401

Dear John:

At our last monthly issues meeting, you requested a copy of our amended wastewater treatment contract with Bucks County Water and Sewer Authority for your files. The contract is enclosed. Please give me a call if you have any questions about it.

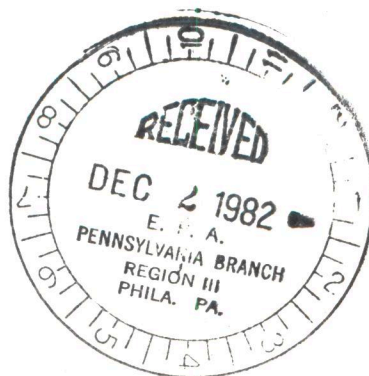
Sincerely,

Tm
THOMAS E. WALTON, III
Deputy Water Commissioner

TEW/pm

Enclosure

*Pg 15 - EITHER PARTY MAY TERMINATE THE AGREEMENT UPON 6 MONTHS NOTICE
Addendum 1 - max flow 20 mgd*



M. Palladino

This Agreement, made this *1st* day of *October*, 1982, A.D. by and between the City of Philadelphia, party of the first part, hereinafter called "City" and the Bucks County Water and Sewer Authority party of the second part, hereinafter called "BCWSA."

WITNESSETH:

WHEREAS, The City owns and operates wastewater collection and treatment facilities which have a limited capacity to convey, scientifically treat and properly dispose of wastewater and its by-products collected from outlying municipalities in addition to wastewater originating within the City; and,

WHEREAS, Expansion of the City's wastewater treatment facilities will enable the City to accommodate additional flows of wastewater; and,

WHEREAS, It is necessary to comply with new higher standards and treatment methods for wastewater as set forth in Federal, State and local laws and regulations; and,

WHEREAS, There are resultant by-products in the form of sludge in connection with all methods of wastewater treatment which must be disposed of; and,

WHEREAS, the City is now expanding and improving its wastewater collection and treatment facilities in accordance with orders, guidelines and regulations of the the Delaware River Basin Commission, the Pennsylvania Department of Environmental Resources and the United States Environmental Protection Agency (hereinafter referred to as "EPA"); and,

WHEREAS, The City has entered into Federal Grant Agreements with the EPA under the Funding Arrangements provided in Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) as amended by the Clean Water Act of 1977 (P.L.

95-217), for the purpose of partially funding the expansion, improvement and rehabilitation of the City's wastewater collection and treatment system; and,

WHEREAS, The City has grant applications pending and expects to apply to the EPA for additional grants in the future for the purpose of partially funding the expansion, upgrading and/or rehabilitation of the City's wastewater collection and treatment system; and,

WHEREAS, The City is required to adhere to and abide by all Federal, State and local laws and EPA Rules and Regulations in order to retain Federal grant funding; and,

WHEREAS, There are in existence an Agreement or Amendments (hereinafter referred to solely as "Agreements") by and between the City and BCWSA through which the City has provided wastewater collection and treatment and sludge disposal services to BCWSA; and,

WHEREAS, Said Federal Rules and Regulations apply to the entire Delaware and Schuylkill River tributary drainage areas which include the BCWSA area served by the City's wastewater collection and treatment system; and,

WHEREAS, In order to comply with Federal, State and local laws and regulations and EPA Rules and Regulations, the City and BCWSA must conduct a sewer system evaluation survey and rehabilitation as required by EPA regulations and other applicable laws and also must implement a User Charge System and must coordinate with the City in their Pretreatment Program implementation of a Federal Facilities Cost Recovery Plan as required by EPA Regulations and Memoranda; and,

WHEREAS, When BCWSA is in compliance as set forth above, it may be eligible for reimbursement under the City's existing and future Grant Agreements for certain authorized eligible costs incurred by it for the said compliance; and,

WHEREAS, The City and BCWSA have now been charged by Federal and State mandates with the legal responsibility to restore and maintain the chemical, physical and biological integrity of our waters and water resources, and also to insure that to the fullest extent possible they prevent, reduce and eliminate pollution in said water resources, and to plan the development and use (including restoration, preservation and enhancement) of said waters and water resources, and to improve the purity of such waters; and,

WHEREAS, The aforesaid conditions could not have been foreseen by the parties when the existing Agreements were originally executed and/or amended. Further, the aforesaid improvements and expansion of the City's present wastewater treatment facilities conditions are caused by Federal pollution control legislation, State and local government regulations and requirements. Further, changes in the population density, increases in the cost of money and increases in the cost of operating wastewater treatment plants have exacerbated this problem. The foregoing circumstances have caused extreme increases in the expense and changes in performance of Agreements by the City and have added restrictions and responsibilities upon both the City and BCWSA in regard to methods of wastewater collection and treatment and sludge disposal; and,

WHEREAS, the City and BCWSA have been in disagreement over the interpretation of the present agreement between the parties concerning the cost allocations for the waste water treatment conducted by the City on the BCWSA's effluent and, after discussions, it is hereby agreed that the existing agreement should be superseded and this new agreement replace it, with no implications that either City or BCWSA admits any deficiency in the prior agreement.

NOW, THEREFORE, It is mutually covenanted and agreed by and between the parties hereto as follows:

Except for services rendered and unpaid under existing Agreements, the City and BCWSA hereby concurrently release one another from any and all rights, privileges, responsibilities or liabilities, either stated or implied in all Agreements by and between the City and BCWSA for wastewater collection and treatment and sludge disposal, and hereby covenant and agree to enter into a new Agreement for wastewater collection and treatment and sludge disposal. Said Agreement shall be as follows:

ARTICLE 1

GOVERNMENT GRANTS, SUBSIDIES, PERMITS AND RELATED MATTERS

1.01. Applications

The City may make application in conjunction with the BCWSA to the Commonwealth of Pennsylvania and to the United States of America and their appropriate agencies for grants, subsidies or other payments, and for all permits and approvals with respect to the planning, design, acquisition, construction, operation and maintenance of the expansion of the City's water pollution control facilities. Further, the City may receive the proportionate share of BCWSA's grants, subsidies or other payments with respect to the construction, acquisition, operation and maintenance of the City's water pollution control plants and appurtenant facilities. The BCWSA shall cooperate fully therein, to the extent of their respective interests in such individual projects.

1.02. Application of Grant Proceeds

After receipt by the City, the City may reimburse to BCWSA the maximum allowable percentage of all authorized costs incurred by BCWSA in compliance with the provisions of this Agreement as provided for under existing applicable laws and grant agreements and deemed eligible by EPA for reimbursement under such existing laws and grant agreements.

All funds received by BCWSA from the City's existing and future Federal grant agreements are subject to Federal and City audit as to authenticity and eligibility of claims as required by laws and regulations.

1.03. Compliance with Laws and Regulations

The City and BCWSA shall comply with all applicable Federal, State and local laws and regulations as well as all EPA Rules and Regulations either now in existence or as may be imposed in the future. BCWSA further agrees to provide any reports, data, surveys or studies required by the City and/or appropriate Federal and State agencies. This may include, but not be limited to, data for construction grant requirements, National Pollutant Discharge Elimination System requirements, Sludge Disposal Permit requirements and industrial pretreatment requirements. The cost of such reports, data, surveys or studies is to be reimbursed to BCWSA by the City to the extent of the funds obtained from Federal or State agencies for that purpose.

1.04 Compliance with Regulations and Laws

In order to comply with Federal, State and local laws and regulations and EPA Regulations and other applicable law:

- (a) The City shall establish a system of charges to be applied to

quantity and quality of wastewater which represents BCWSA's share of the costs of providing the wastewater collection and treatment, and sludge disposal services by the City to BCWSA.

(b) In cooperation with the City, BCWSA shall develop, adopt, implement and maintain a User Charge System which properly distributes the cost of serving each user or class of users in compliance with applicable law and EPA Regulations. BCWSA shall provide evidence as required by all Federal and State regulatory bodies of the timely development of its User Charge System. Upon initiation of the User Charge System, BCWSA shall maintain such current records as are necessary to document continued user compliance. These records are to be available for periodic examination by the City by mutual arrangement.

(c) If required by EPA, BCWSA agrees to develop, adopt, and implement a system for the collection, metering, sampling, retention and payment of the Industrial Cost Recovery Charges in compliance with EPA Rules and Regulations and other applicable laws; and BCWSA shall provide evidence as required by all regulatory bodies, as well as the City, of the timely development of its Industrial Cost Recovery System. Upon initiation of the Industrial Cost Recovery System, BCWSA shall maintain such records as are necessary to demonstrate continued compliance. Such records are to be available for inspection by the City when requested.

(d) BCWSA shall conduct a Sewer System Evaluation Analysis and Rehabilitation Program in compliance with EPA Rules and Regulations .

(e) BCWSA shall coordinate with the City the implementation of a Federal Facilities Cost Recovery Plan as required by EPA Regulations and Guidance Memoranda to recover those project costs allocated to the treatment of wastes from major activities of the Federal Government within outlying townships, municipalities, or authorities, where applicable.

(f) Failure by BCWSA to comply with any of the terms and conditions of the above provisions which may jeopardize EPA's approval of continuation of an existing or future grant agreement between the City and EPA shall at the discretion of the City Water Commissioner, be deemed a violation of the above provisions. The City retains the right to terminate in part or in whole any or all wastewater services between BCWSA and the City as a result of violations of the above provisions; provided, however, that the City shall first give BCWSA ninety (90) days notice in writing, by certified mail, of the violation or violations.

(g) All costs or penalties incurred by the City because of termination and/or restoration of any and all wastewater services between the City and BCWSA as a result of violations of the above provisions shall be payable to the City by BCWSA within one hundred eighty (180) days of such billing by the City. Penalties shall be added to the unpaid balance thereafter at the rate of one and one-quarter percent (1¼%) per month.

ARTICLE 2

WASTEWATER CHARGES AND PAYMENTS

2.01. Wastewater Service

(a) BCWSA shall pay quarterly to the City a Wastewater Service Charge for the conveyance, treatment and disposal of its wastewater delivered to the City. The Wastewater Service Charge shall be determined in accordance with past and estimated future costs of conveying and treating wastewater and disposing of resultant sludge and shall include charges applicable in part to quantity and quality of the wastewater flow delivered by BCWSA and in part to contractual capacities as set forth in Article 3, Section 3.02, as well as the attached Addendum. Said wastewater charges

shall include but not be limited to: (1) depreciation and return on facilities; (2) costs of operation, maintenance, repairs, replacements and removals of the City's conveyance and treatment facilities; and, (3) appropriate shares of employee benefits, departmental overhead and other non-direct expenses.

(b) Wastewater Service Charges by the City shall be reviewed no less frequently than bi-annually, and said Wastewater Service Charges may be increased or decreased, if necessary.

(c) The City will render billings to BCWSA on a quarterly basis. Any lump sum charges shall be pro-rated over the four quarters of the year. These billings shall be based upon actual quantity and quality and/or contractual capacities or, when necessary, upon estimates thereof.

(d) Billings shall be payable to the City by BCWSA within thirty (30) days. Penalties shall be added to the unpaid balance thereafter, at a rate of one and one quarter percent (1¼%) per month.

(e) The City shall provide notice to BCWSA of any change in rates at least ninety (90) days in advance of their becoming effective.

(f) City wastewater charges for the conveyance, treatment and disposal of wastewater received from BCSWA shall become effective January 1, 1980.

ARTICLE 3
CONSTRUCTION, OPERATION AND MAINTENANCE
OF BCWSA'S CONVEYANCE SYSTEM
AND RELATED MATTERS

3.01. Design and Construction

BCWSA shall design, construct, own, operate and repair at its sole cost and expense sanitary sewers and connections to the City system necessary to convey its wastewater to the City. The locations of approved points of connection and provisions concerning these connections are described in the Addendum attached hereto and made a part hereof.

No additional points of connection shall be made without prior written approval from the City Water Commissioner. If certain BCWSA's connections are determined by the City or any governmental regulatory agency to be maintenance problems or sources of unauthorized discharges, the City shall have the right to notify BCWSA that such connection must be disconnected and relocated and BCWSA shall do so forthwith, at the sole expense of BCWSA.

3.02. Allowable Quantities

The City shall also have the right to establish quantities, qualities and flow rates of wastewater received from BCWSA, specific details of which are included in the attached Addendum. In the event that BCWSA exceeds the quantities, qualities or flow rates set forth in the attached Addendum, the City shall have the right to impose any sanctions as set forth in Sections 1.04(f) and (g) as well as any other provision of this Agreement pertaining to wastewater charges and penalties.

3.03. Metering and Sampling

Plans and specifications for a chamber or chambers for metering and sampling shall be submitted to the City by BCWSA for approval. Upon approval by the City, such chamber or chambers may be placed at each point of connection to the City system.

(a) Chambers shall include approved meters for measurements of wastewater quantities, and telemetry equipment for transmitting flow data to a regional control center in the City. Chambers shall also be equipped with automatic sampling equipment.

(b) All chambers, equipment and installation thereof shall initially be at the sole cost of the BCWSA.

(c) The City shall:

1. Record periodically the meter readings of wastewater flowing through said meters;

2. Periodically take wastewater samples for analyses; and,

3. Perform the analysis of samples according to standard methods as prescribed in the current edition of "Standard Methods for the Examination of Water and Wastewater," published by American Public Health Association, and the City's findings in such analysis shall be binding on both parties to this Agreement.

(d) Send flow data utilized in the billing to BCWSA with each billing.

The City will own all the aforesaid equipment, wherever located, and will inspect, calibrate, maintain and repair such meters and devices as part of its operating costs.

The City shall estimate flow and quality conditions when accurate records are unavailable for any reason whatsoever.

The City shall have the option of approving BCWSA's schedule for the installation of such equipment. BCWSA shall have a right to inspect meters and check calibration.

ARTICLE 4
EXPANSION, OPERATION AND MAINTENANCE
OF CITY PLANTS AND RELATED MATTERS

4.01. Design, Construction, Operation and Maintenance of Water Pollution
Control Plants

The City will plan, design, and construct the expansion of City water pollution control plants and appurtenances and will thereafter operate, maintain, repair and improve such expanded plants pursuant to the guidelines of, and with the cooperation of, the Delaware River Basin Commission, the Pennsylvania Department of Environmental Resources and the United States Environmental Protection Agency and other responsible governmental agencies.

ARTICLE 5
FUTURE SERVICE REQUIREMENTS, FUTURE
EXPANSION AND RELATED MATTERS

5.01 Future Service Requirements and Related Matters

The City and BCWSA shall, from time to time, review system performance and the City's and BCWSA's current and future requirements, both in terms of additional future flows of wastewater and higher standards of wastewater treatment and disposal. BCSWA shall:

(a) pay its proportionate share of the total project costs of such expansion; and

(b) assist in the financing of such project costs as directed by the City Water Commissioner.

ARTICLE 6

WASTEWATER QUALITY RESTRICTIONS

6.01. Uniform Standards

BCWSA shall adopt rules, regulations and resolutions governing sewer connections and the admission of wastewater into the sewers of BCWSA which shall bar from the sewers of BCWSA such substances as are barred by the City from its sewers according to the Federal, State and local laws and regulations and EPA Rules and Regulations existent or adopted in the future.

BCWSA agrees to submit documentation to demonstrate enforcement and compliance with all appropriate rules and regulations and resolutions to the City pursuant to the City's National Pollutant Discharge Elimination System Permits and/or Sludge Disposal Permits.

6.02. Damages Due to Barred or Harmful Substances

Any costs or damages incurred by the City as a result of BCWSA's facilities not complying with Article 6, Section 6.01 shall be billed to BCWSA and shall be paid to the City by BCWSA within thirty (30) days of such billing by the City. Penalties shall be added to the unpaid balance thereafter, at the rate of one and one-quarter percent ($1\frac{1}{4}\%$) per month.

ARTICLE 7

SLUDGE DISPOSAL

7.01. Utilization of Wastewater Sludge Generated by City Facilities

BCWSA recognizes the importance and urgent need to utilize sludge in a timely and proper manner. BCWSA shall cooperate fully with City in any environmentally sound sludge utilization program meeting Federal and State standards within area served by BCWSA.

ARTICLE 8

MISCELLANEOUS

8.01. Inspection and Audit

Complete records and accounts relating to each party's responsibilities under this Agreement shall be kept. Each party shall at all times have the right to examine and inspect said records and accounts and their physical facilities.

If required by any law or regulation, BCWSA shall make said records and accounts available to Federal and State grant auditors.

8.02. Arbitration of Dispute

If any dispute shall arise between the parties hereto, touching the terms, conditions and covenants of this Agreement, the same shall be submitted to a Board of Arbitration. The Board of Arbitration shall be composed of three (3) arbitrators, one appointed by the Water Commissioner, one by BCWSA, and the third to be agreed upon jointly by the arbitrators selected by the Water Commissioner and BCWSA .

The arbitrators representing BCWSA and the City shall be named within five (5) days from the request for the appointment of such Board. If after a period of ten (10) days from the date of the appointment, the two (2) arbitrators appointed by the City and BCWSA cannot agree on the third arbitrator, then either appointed arbitrator may request the American Arbitration Association or its successor in function to furnish a list of three (3) members of said Association who are residents of Pennsylvania (but not residents of either Philadelphia or Bucks Counties) from which the third arbitrator shall be selected.

The arbitrator appointed by the BCWSA shall then eliminate one (1) name from the list furnished by the American Arbitration Association within five (5)

days after its publication, following which the arbitrator appointed by the City shall eliminate one (1) name from the list within five (5) days thereafter. The individual whose name remains on the list shall be the third arbitrator and shall act as the Chairman of the Board of Arbitrators.

The Board of Arbitrators, thus established, shall commence the arbitration proceedings within ten (10) days after the third arbitrator is selected and shall make its determination within thirty (30) days after the appointment of the third arbitrator. The decision of such arbitrators shall be final and binding upon the parties.

8.03. Claims, Insurance and Related Matters

1. BCWSA agrees to defend and/or join in defending and also indemnify the City and save it harmless from and against all claims, actions, causes, suits, demands, losses, interest, penalties and liabilities pursuant to performance of this Agreement by reason of:

(a) The City's inability, due to causes beyond its control, to perform any of the provisions of this Agreement;

(b) Injury (including death) to persons and damages to property resulting from any operations under this Agreement, whether due to the negligence of the City, BCWSA, its employees, servants or the inherent nature of said operations;

(c) EPA or Pennsylvania Department of Environmental Resources action of any kind whatsoever, direct or indirect, for any work undertaken by BCWSA, its contractors or consultants, necessary and required by this Agreement due to rejection of said work by the EPA or Pennsylvania Department of Environmental Resources;

(d) Any grant fund, or any portion thereof, received by BCWSA and later determined to be ineligible for reimbursement by the appropriate regulatory agency or grant auditors.

2. Nothing hereinabove set forth shall limit or debar the City from resorting to any appropriate remedy in law or equity, or any combination of remedies for non-compliance with Section 8.03 of this Agreement.

8.04. No Transfer of Rights

No provisions of this Agreement shall be deemed to:

1. Confer upon any third person any right against BCSWA or the City or to authorize any such third person to institute any suit against BCWSA or the City.

2. Permit or authorize BCSWA to confer, transfer, convey, assign, or license any third party any rights obtained under this Agreement.

8.05. Term.

This Agreement shall become effective immediately and shall continue in force and effect for seven (7) years commencing on the date hereof and shall thereafter continue until termination by either of the parties hereto giving the other at least six (6) months written notice of its intention to do so.

8.06. No Joint Ownership

No provision of the Agreement shall be construed to create any type of joint ownership of any property, any partnership or joint venture, or create any other rights or liabilities except as expressly set forth herein.

8.07. Severability

Should any provision hereof for any reason be held illegal or invalid, no other provision of this Agreement shall be affected; and this Agreement shall then continue in full force as if such illegal or invalid provision had not been contained herein.

8.08. Successors and Assigns

Except as set forth in Section 8.04, all the covenants contained in this Agreement shall extend to and bind the respective successors and assigns of the parties hereto with the same effect as if the words "successors and assigns" had, in each case, been specifically mentioned.

8.09. Waiver

The failure of a party hereto to insist upon strict performance of this Agreement or of any of the terms or conditions hereof shall not be construed as a waiver of any of its rights herein granted.

ARTICLE 9

9.01. Addendum

Notwithstanding anything herein contained to the contrary, it is further understood and agreed that the Addendum attached hereto is hereby incorporated by reference as though fully set forth herein.

IN WITNESS WHEREOF, The City of Philadelphia has caused this Agreement to be executed by its Water Commissioner pursuant to an Ordinance; and the appropriate officers of the Bucks County Water and Sewer Authority have executed this Agreement on behalf of the Authority, and have hereunto affixed the corporate seal of the said Authority duly attested by the appropriate officer thereof, the day and year first above written.

CITY OF PHILADELPHIA

By: 

WILLIAM J. MARRAZZO
Water Commissioner

Approved as to form:
ALAN J. DAVIS
City Solicitor

By: 

ALBERT J. SLAP
Deputy City Solicitor

By: 

HAROLD D. SURSA
Executive Director
BUCKS COUNTY WATER and
SEWER AUTHORITY

Attest: 

Date: _____

ADDENDUM No. 1

Bucks County Water and Sewer Authority, Bucks County, Commonwealth of Pennsylvania

Notwithstanding anything contained herein to the contrary, this Addendum is made part of this Agreement between the City of Philadelphia and the Bucks County Water and Sewer Authority, Bucks County, Commonwealth of Pennsylvania.

1. The point of connection to the City Wastewater System shall be in the vicinity of State Road and Grant Avenue.
2. The area covered by this Agreement shall be the entire territory served by the Authority.
3. The maximum flow capacity from the Authority's system to the City's system shall be forty cubic feet per second (40 cfs) at certain times herein-after noted, and a total maximum flow of twenty million gallons per twenty-four hour day (20 mgd), subject to the following conditions:
 - a) The rate of wastewater flow to be received shall be limited to the amount of fourteen cubic feet per second (14 cfs) at times of maximum flow during daylight hours and may be increased to an ultimate maximum of forty cubic feet per second (40 cfs) during non-daylight hours or for such longer periods as may be approved by the City.
 - b) In the event that the maximum daylight hours flow should be exceeded, the Authority may choose to construct and maintain, at its sole cost and expense, an extension of the wastewater connection to a point further within the City where there is sufficient capacity in the City system for a maximum rate of flow of forty cubic feet per second (40 cfs) wastewater flow.
4. The City and the Authority (BCWSA) agree to negotiate the daylight flow restriction to a higher flow after the rebuilding of the Northeast Water Pollution Control Plant is completed.
5. In accordance with Section 1.03 and 2.01, the wastewater service charges to the Bucks County Water and Sewer Authority shall initially be as follows:
 - 1) An annual lump sum charge, inclusive of depreciation expense, return on investment, sewer maintenance expenses and customer related costs of \$471,800; plus,

2) A volume charge of \$0.1491 per each 1000 cubic feet (Mcf) of wastewater delivered; plus,

3) A capacity charge of \$2,396 per cubic foot per second (cfs) of contracted wastewater capacity. This capacity or capacities to be used for billing purposes shall be that expressed herein in terms of cubic feet per second (cfs); plus,

4) A charge of \$24.74 for each 1000 pounds of suspended solids (S.S.) delivered; plus,

5) A charge of \$37.59 for each 1000 pounds of bio-chemical oxygen demand (BOD) delivered.

UTH1



CITY OF PHILADELPHIA

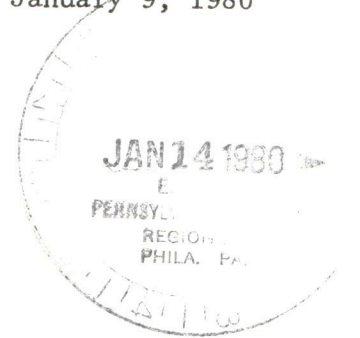
CARMEN F. GUARINO
COMMISSIONER

WATER DEPARTMENT

1180 MUNICIPAL SERVICES BUILDING
PHILADELPHIA, PA. 19107

January 9, 1980

Mr. Peter Ludzia
U.S. EPA, Region III
6th & Walnut Streets
Philadelphia, PA 19106



Dear Mr. Ludzia:

As requested, I am forwarding a copy of the agreement between the City of Philadelphia Water Department and the Delaware County Regional Water Quality Control Authority dated March 15, 1974. Also enclosed is the agreement between the City of Philadelphia Water Department and Springfield Township Montgomery County, dated August 5, 1931 and subsequent amendments dated January 4, 1947; March 16, 1955; March 1, 1961; March 17, 1967 and March 4, 1974.

Sincerely,

Paul A. Kopicki

PAUL A. KOPICKI
Project Engineer

PAK:gsv

Enclosures